

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

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|--|---|---|
| CATHERINE GOULD individually, and on behalf of all others similarly situated, |) | |
| |) | |
| Plaintiff, |) | |
| |) | |
| v. |) | Case No. 4:14-cv-01093 |
| |) | |
| LTF CLUB OPERATIONS COMPANY, INC. d/b/a LIFE TIME FITNESS, |) | Removed from the Circuit Court of St. Louis County, Missouri, Case No. 14SL- CC01257 |
| |) | |
| Defendant. |) | |

NOTICE OF REMOVAL

TO: The Honorable Judges of the United States District Court for the Eastern District of Missouri

and

David T. Butsch
Christopher E. Roberts
BUTSCH ROBERTS & ASSOCIATES LLC
231 South Bemiston Ave., Suite 260
Clayton, MO 63105
Attorneys for Plaintiff

PLEASE TAKE NOTICE that Defendant LTF Club Operations Company, Inc. d/b/a Life Time Fitness ("Life Time") hereby removes the above captioned case, pursuant to 28 U.S.C.

§ 1331. In support of this Notice of Removal, Life Time states as follows:

1. On April 17, 2014, Plaintiff Catherine Gould filed the above-captioned action in the St. Louis County Circuit Court, Case No. 14SL-CC01257. Life Time was served with a copy of the Summons and Class Action Petition on May 15, 2014. Pursuant to 28 U.S.C. § 1446(a), a copy of all process and pleadings served upon Life Time are attached hereto as Exhibit 1.

2. As set forth below, Defendant has satisfied all procedural requirements for removal, and this Court has federal question jurisdiction over this action, pursuant to 28 U.S.C. § 1331. Accordingly the Class Action Petition is properly removed to this Court.

I. LIFE TIME HAS SATISFIED THE PROCEDURAL REQUIREMENTS FOR REMOVAL.

3. Life Time's removal is timely filed under 28 U.S.C. § 1446(b) because it has been filed "within 30 days after the receipt by the defendant, through service or otherwise, of a copy of the initial pleading setting forth the claim for relief upon which such action or proceeding is based." *Id.* A defendant's time to remove an action "is triggered by simultaneous service of the summons and complaint, or receipt of the complaint, 'through service or otherwise,' after and apart from service of the summons, but not by mere receipt of the complaint unattended by any formal service." *Murphy Bros. v. Michetti Pipe Stringing*, 526 U.S. 344, 347–48 (1999). Life Time was served with the Summons and Petition on May 15, 2014, and files this Notice of Removal within 30 days.

4. The United States District Court for the Eastern District of Missouri, Eastern Division is the District Court for the district embracing the Circuit Court of St. Louis County, Missouri, where the action is currently pending. *See* 28 U.S.C. § 105(a)(1). Venue is therefore proper in this district under 28 U.S.C. § 1441(a).

5. Pursuant to 28 U.S.C. § 1446(a), Life Time is filing with this Notice a copy of all process, pleadings, and orders filed in the state court action. (*See* Exhibit 1.)

6. A copy of this Notice of Removal is being served upon Plaintiff through her attorneys of record, and notice of this Removal is being filed with the Clerk of the Circuit Court of St. Louis County, Missouri, as required by 28 U.S.C. § 1446(d).

II. THIS COURT HAS SUBJECT MATTER JURISDICTION OVER THIS ACTION.

7. A defendant may remove to federal court “any civil action of which the district courts have original jurisdiction founded on a claim or right arising under the Constitution, treaties, or laws of the United States.” 28 U.S.C. §1441(b). Federal district courts have “original jurisdiction of all civil actions arising under the Constitution, laws or treaties of the United States.” 28 U.S.C. §1331.

8. The above-captioned case is a civil action over which this Court has jurisdiction pursuant to 28 U.S.C. § 1331 because Plaintiff alleges that Life Time has violated federal law, specifically the Telephone Consumer Protection Act, 47 U.S.C. § 227. *See* Petition, ¶¶ 13–26; *see also Mims v. Arrow Fin. Servs., LLC*, 132 S. Ct. 740 (2012).

III. CONCLUSION

Because the Court has original federal question jurisdiction over this matter pursuant to 28 U.S.C. § 1331, it is properly removed to this Court pursuant to 28 U.S.C. § 1441(a). Accordingly, Life Time removes this case to the United States District Court for the Eastern District of Missouri. Life Time expressly reserves its right to raise all defenses and objections to Plaintiff’s claims after the action is removed to the above Court.

Dated: June 13, 2014

ARMSTRONG TEASDALE LLP

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**Petitions for Admission
Pro Hac Vice forthcoming*

Attorneys for Defendant
LTF Club Operations Company, Inc.
d/b/a Life Time Fitness

CERTIFICATE OF SERVICE

I hereby certify that on June 13, 2014, a copy of the foregoing was served by electronic mail and U.S. Mail, postage prepaid, on the following attorneys of record:

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